

RELATING TO MAINTENANCE AND TRAVEL EXPENSES
OF JUDGES

JULY 21, 1959.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 2909]

The Committee on the Judiciary, to which was referred the bill (H.R. 2909) relating to the maintenance and travel expenses of judges, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

AMENDMENT

Strike all after the enacting clause and insert in lieu thereof the following:

That the first paragraph of section 456 of title 28, United States Code, is amended to read as follows:

"Each Justice or judge of the United States and each retired Justice or judge recalled or designated and assigned to active duty, while attending court or transacting official business at a place other than his official station, shall, upon his certificate, be paid by the Director of the Administrative Office of the United States Courts all necessary traveling expenses, and also a per diem allowance in lieu of actual expenses of subsistence (as defined in the Travel Expense Act of 1949, as amended, 63 Stat. 166; 5 U.S.C. 835) at the per diem rate provided for by the Travel Expense Act of 1949, as amended, or, in accordance with regulations prescribed by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States, reimbursement for his actual expenses of subsistence not in excess of the maximum amount fixed by the Travel Expense Act of 1949, as amended."

PURPOSE OF AMENDMENT

The purpose of the proposed amendment is to bring justices and judges of the United States within the provisions of the Travel Expense

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Act of 1949, as amended. The amendment will allow the Justices and judges to continue under the Travel Expense Act of 1949, as amended, whereas, H.R. 2909 as passed by the House would require amendment, insofar as justices and judges are concerned, in the event that the Travel Expense Act of 1949, should subsequently be amended.

PURPOSE

The purpose of the proposed legislation, as amended, is to increase to \$25 per day the maximum amount for which justices and judges of the United States may be reimbursed for their reasonable maintenance expenses actually incurred while attending court or transacting official business at places other than their official stations.

STATEMENT

This legislation, as amended, is recommended for favorable consideration by the Judicial Conference of the United States, and the Department of Justice also strongly urges enactment of the legislation. The amendment to the bill as set forth above is in accordance with the recommendations of the Judicial Conference of the United States and is intended to be in the nature of a perfecting amendment in order that, as heretofore stated, justices and judges shall clearly come within the provisions of the Travel Expense Act of 1949, as amended, in the same manner as do all other employees of the Government.

The justification for this legislation is found in House Report No. 72 on H.R. 2909, and is as follows:

LEGISLATIVE HISTORY

In the 85th Congress the bill, H.R. 3369, passed the House in an amended form identical to this bill, H.R. 2909, on August 12, 1958. A hearing was held on the proposal in the 85th Congress and the bill was reported amended by the Committee on the Judiciary in House Report No. 2516, 85th Congress, 2d session.

THE NEED FOR THE LEGISLATION

It is common knowledge that many of the calendars in the Federal courts throughout the Nation are seriously congested, so that there is considerable delay in disposing of the litigation. This situation, in turn, causes a denial of justice to the litigants and in many instances the delay causes financial hardships on the parties involved.

Typical of this situation are 13 districts having purely Federal jurisdiction where, in 1957, the number of private cases filed per judge exceeded 200. There are also 31 other districts, where it was less than 100, the national average 151 such cases per judge. These figures are indicative of the problem which confronts the courts today. The records of the Administrative Office of the U.S. Courts indicate that the dockets of the courts in the metropolitan areas are the ones which are most congested. In other areas where the

dockets are more or less up to date, the judges of those courts would be eligible to serve outside their districts in those particular courts where additional judicial manpower is needed to relieve the congestion. This is true not only of active judges but also of those judges who have retired but are willing to undertake additional judicial work.

A hearing on this proposal, however, indicates that many of the judges, both active and retired, are reluctant to serve outside of their districts or circuits because experience has proven to them that to reside temporarily in these metropolitan areas results in out-of-pocket expenses over and above the reimbursement which the law now permits them to receive; namely, \$15 per day for subsistence.

Thus, the opinion of this committee is that by raising the maximum allowance to \$25 per day for expenses actually incurred, many of these judges will be willing to travel to these congested metropolitan areas and assist in alleviating the court congestion there.

COST

The estimated additional cost of this legislation, as submitted by the budget and accounting officer of the Administrative Office of the U.S. Courts, is between \$50,000 and \$75,000 a year. A copy of a memorandum on the estimated cost is attached hereto and made a part of this report.

GENERAL STATEMENT

It should be kept in mind, however, that the proposal fixes the maximum at \$25 a day for expenses actually incurred. At the same time, it would permit a judge, while away from his official station on official business, to accept in lieu of actual expenses a per diem allowance of \$12 per day for subsistence, as defined in the Travel Expense Act of 1949 (5 U.S.C. 835).

The budget and accounting officer of the Administrative Office of the U.S. Courts has informed the committee that his study of the vouchers submitted by Federal judges, while away from their official stations for a period ending August 1957, demonstrated conclusively that the maximum reimbursement of \$15 a day is not made use of by the judges except when the judge is away overnight from his official station. Those statistics indicated that actually only 36 percent of the days were days on which the judges claimed up to the maximum of \$15, while the remaining 64 percent represented the amount of days on which the judges did not claim the maximum possible reimbursement. All reimbursement for official travel is made through the Administrative Office of the U.S. Courts.

Testimony indicated that where a judge volunteers for duty outside of his circuit, it is usually for a rather lengthy period of time, which requires his living in a hotel for several days or more. It is in these particular instances that the maximum allowance of \$15 per day is insufficient.

It is a well-known fact that the cost of living has increased greatly in the past few years. For example, the Bureau of the Budget has informed the committee that in October of 1957 the periodical, *Sales Management*, contained information with respect to the cost of hotel accommodations and meals, which report was based upon information from approximately 200 firms. This article indicated the cost of housing, meals, local transportation, and incidentals average \$18.02 per day in the larger cities of over 100,000 population and \$15.05 in smaller cities. The act of August 8, 1956 (67 Stat. 488; 28 U.S.C. 456), increased the limit of reimbursement maintenance from \$10 to \$15 a day.

Attached hereto as a part of this report is a schedule of hotel rates in typical cities throughout the Nation.

The Judicial Conference of the United States has specifically approved H.R. 2909. Your committee has also been informed that the Attorney General of the United States has recommended this increased maximum allowance. A copy of a letter from the Deputy Attorney General to the chairman of the Judiciary Committee of the U.S. Senate is attached hereto and made a part of this report.

Also attached hereto as a part of this report is a letter dated March 26, 1957, from the Administrative Office of the U.S. Courts recommending increase to a \$25 per day maximum. Similarly attached and made a part of this report is a communication from the Bureau of the Budget regarding this legislation.

The committee notes that there is a change in the basic allowances for maintenance and travel expenses of judges in this legislation. Under present law, judges are allowed actual expenses of subsistence not to exceed \$15 per day. Under the proposed legislation, judges would be allowed a per diem of \$12 per day and, upon a showing of actual expenses incurred, the sum could be increased to cover such actual expenses, not to exceed \$25. These are the sums presently provided for in the Travel Expense Act of 1949, as amended. The application of the Travel Expense Act of 1949, as amended, will thus be uniform throughout the entire Government including the judiciary.

The committee believes that this legislation is meritorious and that it would increase the efficiency of the Federal judiciary in that the present judges would be able to help with the workload in districts and circuits other than their own without having to do so at their own expense. The dockets and calendars throughout many districts of the United States are in such a congested state as to require the assistance of judges less burdened with work. We can only expect those judges to undertake this additional work and do it in the manner in which it should be accomplished by trying, insofar as possible, to save them free and clear of personal expenses to themselves. It is felt that in the interest of justice the maximum allowance of \$25 per day for expenses actually incurred should be paid to them.

It is believed that the proposed legislation, particularly as it is in accord with the law in respect to other Government personnel is fair and equitable. The committee, therefore, recommends that the bill, H.R. 2909, as amended, be considered favorably.

ADMINISTRATIVE OFFICE
OF THE U.S. COURTS,
Washington, D.C., October 18, 1957.

Memorandum for Mr. ELLIS:

Pursuant to your request we conducted a survey of maintenance expenses paid to judges while in a travel status over a period of 20 months ending with August 1957 (the vouchers for this period were readily available). During the 20-month period there was paid the total amount of \$310,965 for 24,464 days of travel, or an average of \$12.71 per day. The maximum of \$15 per day was claimed for approximately 36 percent of the days and the average amount per day for the remaining 64 percent was \$11.22. Over the period studied the percentage of days for which the maximum amount was claimed increased steadily from 28 percent to a little more than 50 percent.

Actual payments for the fiscal year 1957 for maintenance expenses of judges amounted to \$190,000 for 15,170 days, or an average of \$12.52 per day. It is estimated that similar payments to judges during the fiscal year 1958 will approximate \$200,000 for an estimated 15,975 days. If it were assumed that \$15 per day would be claimed for 50 percent of the days (7,987) the payment in dollars would be \$119,805. If it is further assumed that the same number of days (7,987) were charged at \$25 per day the increase would be 67 percent, or roughly \$80,000. The higher cost (167 percent of \$119,805) when added to the amount paid for maintenance expenses claimed at less than \$15 per day would approximate \$280,000.

Estimating the costs in the manner stated above will undoubtedly produce an outside estimate of the increase, but with a higher maximum amount available the average of \$11.22 per day over the last 20 months will increase slightly to offset the outside estimate of increases from old to new maximum. Actually, it is believed that the additional cost of raising the maximum subsistence allowance to \$25 per day will be somewhat less than the estimate of \$80,000. I should say that the cost will be between \$50,000 and \$75,000 a year.

JOHN BROWN,
Budget and Accounting Officer.

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Alphabetical list of hotel single-room rates in typical cities of the United States (all rates given are "and up")

City	Lowest		Medium		Highest	
	Hotel	Cost	Hotel	Cost	Hotel	Cost
Albany, N.Y.	Capital	\$2.00	Sheraton Ten Eyck	\$5.85	Town House Motor	\$8.00
Atlanta, Ga.	Frances	2.00	Peachtree Manor	4.00	Henry Grady	5.50
Baltimore, Md.	Mount Royal	3.00	Southern	5.00	Sheraton Belvedere	6.85
Boston, Mass.	Minerva	3.00	Sherry Biltmore	5.00	Ritz Carlton	9.00
Buffalo, N.Y.	Graystone	2.50	Markeen	4.00	Statler	6.00
Charleston, S.C.	Charleston	2.75	Fort Sumter	4.00	Francis Marion	5.00
Chicago, Ill.	Pinegate	2.50	Conrad Hilton	6.00	Ambassador East and West	13.50
Cincinnati, Ohio	Cincinnati	3.00	Netherland Plaza	5.00	Town Center Motel	7.50
Cleveland, Ohio	Olmstead	3.75	Manger	5.00	Parkbrook	7.00
Dallas, Tex.	Mayfair	2.50	Lynn	4.50	Statler Hilton	7.00
Denver, Colo.	Auditorium	2.50	Oxford	4.00	Brown Palace	7.50
Des Moines, Iowa	Elliott	2.00	Brown	4.00	Commodore	6.00
Detroit, Mich.	Rex	2.50	Detroit Leland	5.00	Park Shelton	6.50
Grand Rapids, Mich.	Mertens	2.00	Pantlind	5.50	Wequetonsing	12.00
Hartford, Conn.	Hartford	3.00	Bond	5.00	Statler	6.50
Houston, Tex.	Milby	2.00	Texas State	3.50	Shamrock Hilton	6.00
Indianapolis, Ind.	Barnes	2.00	Continental	4.50	Claypool	7.00
Jacksonville, Fla.	Aragon	2.50	Ambassador	4.25	Roosevelt	5.00
Kansas City, Mo.	Montrose	1.50	Phillips	5.50	Rockhill Manor	7.50
Los Angeles, Calif.	Barclay	1.50	Statler	6.50	Bel Air	12.50
Little Rock, Ark.	Marion	3.50	Sam Peck	4.00	Grady Manning	4.25
Louisville, Ky.	Berkeley	2.00	Puritan	4.50	Brown	5.50
Memphis, Tenn.	Ambassador	2.00	George Vincent	3.00	King Cotton	4.75
Miami, Fla.	Tamiami	4.00	Miami Airways	8.00	Miami Spring Villas	16.00
Milwaukee, Wis.	Republican	2.00	Wisconsin	4.50	Plankinton House	6.00
Montgomery, Ala.	Exchange	3.50	Greystone	3.75	Whiteley Hotel	4.50
Newark, N.J.	Parkhurst	2.50	Carlton	4.00	Robert Treat	5.50
New Haven, Conn.	Taft	4.00	Duncan	5.50	New Haven Motor Court	7.50
New Orleans, La.	LaSalle	3.00	Monteleone	5.00	Pontchartrain	7.50
New York, N.Y.	Kenmore Hall	2.50	Bedford	7.00	Carlyle	16.00
Omaha, Nebr.	Loyal	2.00	Hill	3.50	Blackstone	6.00
Philadelphia, Pa.	St. James	4.75	Benjamin Franklin	6.00	Barclay	9.00
Pittsburgh, Pa.	Penn Shady	3.50	Roosevelt	5.00	Schenley Park	7.00
Providence, R.I.	Mohican	2.00	Narragansett	4.00	Wayland Manor	8.00
Portland, Maine	Falmouth	2.75	Lafayette	3.75	Eastland	4.20
Richmond, Va.	Capitol	2.50	Jefferson	4.00	John Marshall	5.00
Rochester, N.Y.	Claridge	2.00	Cadillac	4.25	Treadway Inn	8.50
St. Paul, Minn.	Angus	1.50	Capri	3.50	St. Paul	5.00
Salt Lake City, Utah	Miles	2.00	Temple Square	4.00	Utah	6.00
San Diego, Calif.	New Palace	2.50	El Cortez	6.50	Del Coronado	18.00
San Francisco, Calif.	Roosevelt	3.50	St. Francis	8.00	Fairmont	10.50
Seattle, Wash.	Commodore	2.00	Edmond Meany	4.50	Olympic	6.50
Tampa, Fla.	Thos. Jefferson	2.50	Bayshore Royal	4.00	Hillsboro	5.00
Trenton, N.J.	Leonard	2.50	Trent Motel	4.00	Stacy Trent	5.85
Tucson, Ariz.	Congress	4.00	Pioneer	10.00	Arizona Inn	24.00
Tulsa, Okla.	Trimble	2.50	Tulsa	4.50	Western Village	7.00
Washington, D.C.	Plaza	3.00	Commodore	4.50	Sheraton Carlton	8.00
San Juan, P.R.	Kasablanca	5.00	Condado Beach	7.00	Conrad Hilton	9.00
St. Thomas, V.I.						
Oahu, T.H.	Blaisdell	3.00	Halekulani	6.00	Royal Hawaiian	12.00
Alaska ¹						

¹ No prices quoted.

APRIL 30, 1958.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 3656) to amend section 456 of title 28, United States Code, with respect to traveling expenses of justices and judges.

Section 456 of title 28, United States Code, provides that each justice and judge of the United States shall be paid all necessary traveling expenses, and also maintenance expenses not exceeding \$15 per day, while attending court or transacting official business at a place other than his official station.

It may be pointed out that the bill is substantially in accord with the act of June 27, 1956 (70 Stat. 360; sec. 68b, title 2, U.S.C.), which provides as follows:

"No part of the appropriations made under the heading 'Contingent expenses of the Senate' hereafter may be expended for per diem and subsistence expenses (as defined in the Travel Expense Act of 1949, as amended) at rates in excess of \$12 per day; except that (1) higher rates may be established by the Committee on Rules and Administration for travel beyond the limits of the continental United States, and (2) in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate, reimbursement for such expenses may be made on an actual expense basis of not to exceed \$25 per day in the case of travel within the continental limits of the United States."

It will be noted that the bill establishes a per diem of \$12 with the exception that in accordance with regulations prescribed by the Director of the Administrative Office of U.S. Courts approved by the Judicial Conference of the United States reimbursement of actual expenses may be made not to exceed \$25 per day. Likewise, the act of June 27, 1956, relating to Senators, as you will observe, provides for a maximum per diem of \$12 with the exception that in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate subsistence expenses may be on an actual expense basis of not to exceed \$25 per day.

In this connection I also call attention to the regulations promulgated in 1957 by the House Committee on House Administration with reference to consideration of resolutions which would authorize funds for conducting studies and investigations. On page 1 of this publication I find the following:

"Members of Congress, while traveling on official business for the House of Representatives, may receive their actual expenses when funds have been authorized for that purpose, provided an itemized statement of such expenses is attached to the voucher together with receipts therefor; or the Member may receive a per diem of \$12 in lieu of actual expenses, in which case no itemized statement nor receipts need be filed."

Entirely aside from the need for this bill as a matter of fairness to the judges who are not fully reimbursed for their expenses while traveling, this bill is one of the most important measures before the Congress as a possible source of relief from court congestion. It will make judges in less busy districts more willing to serve in those which are congested. To be of value they must take at least a 30-day assignment and there are not many who can make the financial sacrifice of spending so long a period without full reimbursement for their expenses.

The Department of Justice strongly urges enactment of the bill.

Sincerely yours,

LAWRENCE E. WALSH,
Deputy Attorney General.

ADMINISTRATIVE OFFICE OF THE
U.S. COURTS,
Washington, D.C., March 26, 1957.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Supplementing Mr. Shafroth's letter to you of February 27, I am writing to say that the Judicial Conference of the United States at its meeting held in Washington on March 14 and 15 approved H.R. 3369 entitled "A bill relating to the maintenance and travel expenses of judges."

The purpose of this proposed legislation is to increase from \$15 to \$25 per day the maximum amount for which justices and judges of the United States may be reimbursed for their reasonable maintenance expenses actually incurred while attending court or transacting official business at places other than their official stations.

The Conference acted upon a unanimous recommendation of the Committee on Court Administration. In submitting its recommendation to the Conference the committee stated:

"The present maximum maintenance allowance of \$15 is obviously inadequate in the metropolitan areas in view of the cost of hotel accommodations and meals. It is the opinion of your committee that the present low maximum maintenance allowance for judges creates a block in the assignment of judges within their circuits by chief judges and without their circuits by the Chief Justice of the United States."

I very much hope that this bill will be considered by your committee at an early date. The Administrative Office stands ready to furnish any additional information with regard to the proposed legislation which the committee may desire.

Sincerely yours,

ELMORE WHITEHURST,
Acting Director.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., June 20, 1958.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: In response to your request of June 9, 1958, there are enclosed two copies of the Standardized Government Travel Regulations effective August 1, 1956, and of an amendment of July 10, 1957, which were promulgated by the Director of the Bureau of the Budget under authority of title 5, United States Code, section 840. The pertinent provision for per diem allowance in lieu of subsistence expenses is contained in section 6.1.

The October 4, 1957, issue of the periodical, Sales Management, contained limited information with respect to costs of hotel accommodations and meals based upon reports from approximately 200 firms about equally divided between industrial and consumer goods establishments. It is indicated that salesmen's costs for housing, meals,

local transportation, and incidentals average \$18.02 a day in larger cities (over 100,000 population) and \$15.05 a day in smaller cities.

We trust that the attached regulations and the information will be of assistance to your committee.

Sincerely yours,

ROGER W. JONES,
Assistant Director.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 456 OF TITLE 28, UNITED STATES CODE

§ 456. Traveling expenses of justices and judges.

¶ Each justice or judge of the United States and each retired justice or judge recalled or designated and assigned to active duty shall, upon his certificate, be paid by the Director of the Administrative Office of the United States Courts all necessary traveling expenses, and also his reasonable maintenance expenses actually incurred, not exceeding \$15 per day, while attending court or transacting official business at a place other than his official station.¶

Each Justice or judge of the United States and each retired Justice or judge recalled or designated and assigned to active duty, while attending court or transacting official business at a place other than his official station, shall, upon his certificate, be paid by the Director of the Administrative Office of the United States Courts all necessary traveling expenses, and also a per diem allowance in lieu of actual expenses of subsistence (as defined in the Travel Expense Act of 1949, as amended, 63 Stat. 166; 5 U.S.C. 835) at the per diem rate provided for by the Travel Expense Act of 1949, as amended, or, in accordance with regulations prescribed by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States, reimbursement for his actual expenses of subsistence not in excess of the maximum amount fixed by the Travel Expense Act of 1949, as amended.

The official station of the Chief Justice of the United States, the Justices of the Supreme Court and the judges of the Court of Claims, the Court of Customs and Patent Appeals, the United States Court of Appeals for the District of Columbia, and the United States District Court for the District of Columbia, shall be the District of Columbia.

The official station of the judges of the Customs Court shall be New York City.

The official station of each circuit and district judge, including each district judge in the Territories and possessions, shall be that place where a district court is regularly held and at or near which the judge performs a substantial portion of his judicial work, which is nearest the place where he maintains an actual abode in which he customarily lives.

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Each circuit judge and each district judge whose official station is not fixed expressly in the second paragraph of this section shall upon his appointment and from time to time thereafter as his official station may change, notify the Director of the Administrative Office of the United States Courts in writing of his actual abode and his official station.

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